

CHAPTER 13-02-20
LOANS SECURED PRIMARILY BY REAL ESTATE

Section	
13-02-20-01	Scope
13-02-20-02	Definitions
13-02-20-03	Loan-to-value Limitations
13-02-20-04	Excluded Transactions
13-02-20-05	Exceptions

13-02-20-01. Scope. This chapter applies to loans that are dependent primarily upon real estate security.

History: Effective November 1, 1995.

General Authority: NDCC 6-01-04

Law Implemented: NDCC 6-03-05

13-02-20-02. Definitions.

1. "Construction loan" means an extension of credit for the purpose of erecting or rehabilitating buildings or other structures, including any infrastructure necessary for development.
2. "Extension of credit" or "loan" means the total amount of any loan, line of credit, or other legally binding lending commitment with respect to real property; and the total amount, based on the amount of consideration paid, of any loan, line of credit, or other legally binding lending commitment acquired by a lender by purchase, assignment, or otherwise.
3. "Improved property loan" means an extension of credit secured by one of the following types of real property:
 - a. Farmland, ranchland, or timberland committed to ongoing management and agricultural production;
 - b. One-to-four family residential property that is not owner-occupied;
 - c. Residential property containing five or more individual dwelling units;
 - d. Completed commercial property; or
 - e. Other income-producing property that has been completed and is available for occupancy and use, except income-producing owner-occupied one-to-four family residential property.
4. "Land development loan" means an extension of credit for the purpose of improving unimproved real property prior to the erection of structures.

The improvement of unimproved real property may include laying placement of sewers, water pipes, utility cables, streets, and other infrastructure necessary for future development.

5. "Loan origination" means the time of inception of the obligation to extend credit, or when the last event or prerequisite, controllable by the lender, occurs causing the lender to become legally bound to fund an extension of credit.
6. "Loan-to-value" or "loan-to-value ratio" means the percentage or ratio that is derived at the time of loan origination by dividing an extension of credit by the total value of the property or properties, securing or being improved by the extension of credit, plus the amount of any readily marketable collateral or other acceptable collateral that secures the extension of credit. The total amount of all senior liens on or interests in such property or properties should be included in determining the loan-to-value ratio. When mortgage insurance or collateral is used in the calculation of the loan-to-value ratio, and such mortgage insurance or collateral is later released or replaced, the loan-to-value ratio should be recalculated.
7. "One-to-four family residential property" means property containing fewer than five individual dwelling units, including manufactured homes permanently affixed to the underlying property.
8. "Other acceptable collateral" means any collateral in which the lender has a perfected security interest, that has a quantifiable value, and is accepted by the letter in accordance with safe and sound lending practices. Other acceptable collateral should be appropriately discounted by the lender consistent with the lender's usual practices for making loans secured by such collateral. Other acceptable collateral includes unconditional irrevocable standby letters of credit for the benefit of the lender.
9. "Owner-occupied" means, when used in conjunction with the term one-to-four family residential property, that the owner of the underlying real property occupies at least one unit of the real property as a principal residence of the owner.
10. "Readily marketable collateral" means insured deposits, financial instruments, and bullion in which the lender has a perfected interest. Financial instruments and bullion must be saleable under ordinary circumstances with reasonable promptness at a fair market value determined by quotations based on actual transactions, on an auction or similarly available daily bid and ask price market. Readily marketable collateral should be appropriately discounted by the lender consistent with the lender's usual practices for making loans secured by such collateral.

11. "Value" means an opinion or estimate, set forth in an appraisal or evaluation, whichever may be appropriate, of the market value of real property prepared in accordance with North Dakota Century Code section 6-03-05. For loans to purchase an existing property, the term "value" means the lesser of the actual acquisition cost or the estimate of value.

History: Effective November 1, 1995.

General Authority: NDCC 6-01-04

Law Implemented: NDCC 6-03-05

13-02-20-03. Loan-to-value limitations. Except as provided in this section and section 13-02-20-04:

1. Loans secured by raw land may not exceed a sixty-five percent loan-to-value ratio.
2. Loans made for land development may not exceed a seventy-five percent loan-to-value ratio.
3. Construction loans for commercial, multifamily, condominiums, cooperatives, and other nonresidential property may not exceed an eighty percent loan-to-value ratio.
4. Construction loans for one-to-four family residential real property may not exceed an eighty-five percent loan-to-value ratio.
5. Improved property loans may not exceed an eighty-five percent loan-to-value ratio.
6. Owner-occupied one-to-four family and home equity loans may not exceed a ninety percent loan-to-value ratio. However, such loans may exceed the ninety percent loan-to-value limit provided the amount above this limitation is government guaranteed, or has an appropriate credit enhancement in the form of either mortgage insurance or readily marketable collateral.

History: Effective November 1, 1995.

General Authority: NDCC 6-01-04

Law Implemented: NDCC 6-03-05

13-02-20-04. Excluded transactions. The loan-to-value ratios established in this chapter do not apply to loans that are insured or guaranteed, or where there is a commitment to insure or guarantee, in part or in full, or conditionally, by the United States, its instrumentalities, this state, or its instrumentalities.

History: Effective November 1, 1995.

General Authority: NDCC 6-01-04

Law Implemented: NDCC 6-03-05

13-02-20-05. Exceptions. Exceptions may be made for the consideration of loan requests from credit worthy borrowers. However, any exceptions from the loan-to-value limits should not exceed, when aggregated with all other loans in excess of the loan-to-value limits, one hundred percent of total equity capital and reserves.

History: Effective November 1, 1995.

General Authority: NDCC 6-01-04

Law Implemented: NDCC 6-03-05